

Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 EURE-00 INRE-00 SSO-00 NSCE-00 USIE-00

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-07

PA-04 RSC-01 PRS-01 SPC-03 SS-20 SAJ-01 CPR-02 SCA-01

ACDA-19 DRC-01 /109 W

----- 013340

O R 191757Z MAR 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 1176

INFO USMISSION BERLIN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 04336

E.O. 11652: GDS

TAGS: PGOV, WB, GE, GW, US, FR, UK, UR

SUBJECT: RESPONSE TO SOVIET PROTEST ABOUT FRG LAW ON
PRIVILEGES AND IMMUNITIES.

REF: (A) STATE 54120; (B) BERLIN 492; (C) BONN 4196

SUMMARY: FRG REPS HAVE TOLD US IN BILATERAL MEETING
THAT SUBJECT OF EXTENDING GAUS/NIER AGREEMENT TO WSB WAS
NEVER DISCUSSED DURING THE FRG/GDR NEGOTIATIONS AND THAT
SUCH EXTENSION SHOULD NOT BE CONSIDERED NOW. FRG REPS
ALSO STRESSED NEED FOR RAPID ALLIED ACTION RE TAKING
OVER IN WSB OF FRG ORDINANCES PROVIDING PRIVILEGES
AND IMMUNITIES TO GDR REPS. IN TRIPARTITE
MEETING UK REPS AGAIN STRESSED THEIR PROBLEMS OF TAKING
OVER THE ORDINANCES IN VIEW OF FACT THAT GAUS/NIER
AGREEMENT WILL NOT BE EXTENDED. END SUMMARY.

1. IN BILATERAL MEETINGS MARCH 18 AND 19 FRG FONOFF AND
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CHANCELLERY REPS STRESSED URGENT DOMESTIC POLITICAL

IMPORTANCE OF POSITIVE ALLIED ACTION ON PENDING FRG ORDINANCES WHICH WILL PROVIDE PRIVILEGES AND IMMUNITIES TO GDR PERM REPS. GAUS IS TO APPEAR BEFORE BUNDESRAAT INNER-GERMAN AFFAIRS COMMITTEE MARCH 21 AND BELIEVES HE MUST BE ABLE TO GIVE SOME INDICATION THAT POSITIVE ALLIED ACTION RE TAKING OVER OF ORDINANCES IS IN PROGRESS.

2. AT TRIPARTITE MEETING MARCH 19 UK REPS AGAIN EXPRESSED VIEWS THAT:

(A) TAKING OVER OF ORDINANCES IN BERLIN IN ABSENCE EXTENSION GAUS/NIER AGREEMENT (NO PROVISION FOR EXTENSION OF AGREEMENT CONTAINED THEREIN) WOULD PLACE ALLIES IN VERY DIFFICULT POSITION VIS-A-VIS SOVIETS, PARTICULARLY IN VIEW OF OUTSTANDING SOVIET DEMARCHE ON TAKING OVER OF FRG LAW ON PRIVILEGES AND IMMUNITIES;

(B) THE MATTER HAS NO PRACTICAL SIGNIFICANCE SINCE IT NOT LIKELY THAT GDR WILL ALLOW ITS REPS TO VISIT WWSB;

(C) PRECEDENTS EXIST IN WHICH THE ALLIES REFUSED EXTENSION OF FRG INTERNATIONAL AGREEMENTS TO WSB BECAUSE OTHER SIGNATORY HAD NOT EXPRESSLY GIVEN APPROVAL; AND

(D) ANY TAKING OVER BY WSB OF ORDINANCES WOULD HAVE TO BE SUBJECT OF BK/L, WHICH COULD PUBLICLY EXPOSE FRG-ALLIED DIFFERENCES ON MATTER.

3. FRENCH REP (BOISSIEU) AGREED THAT TAKING OVER WOULD REQUIRE BK/L WHICH WOULD EXPOSE FRG-ALLIED DIFFERENCES AND, BECAUSE OF SEVERE RESERVATIONS WHICH ALLIES WOULD REQUIRE, WOULD POSSIBLY BE WORSE THAN NOT TAKING OVER ORDINANCES. BOISSIEU INDICATED, HOWEVER, THAT MATTER WAS HEAVILY-CHARGED POLITICAL ISSUE IN FRG AND THAT SOME KIND OF PRACTICAL SOLUTION SHOULD BE SOUGHT WHICH WOULD

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 04336

MEET FRG MINIMUM NEEDS.

4. U.S. REP AGREED ON NEED TO REACH AGREEMENT ON THIS TYPE OF SOLUTION; HE EXPRESSED HOPE THAT ALLIES WOULD BE ABLE TO INDICATE GENERALLY TO FRG IN BONN GROUP MARCH 20 THAT ALLIES COULD AGREE TO TAKING OVER OF ORDINANCES, BUT THAT IN BK/L RESERVATIONS WOULD BE STATED ALONG LINES THOSE OF BK/O(73)7 OF SEPT 28, 1973 WHICH AUTHORIZED TAKING OVER OF FRG LAW ON PRIVILEGES AND IMMUNITIES. UK LEGAL ADVISOR (BERMAN) NOTED THAT THERE WERE VARIOUS SUCH FORMULATIONS AVAILABLE -- E.G., THAT USED BY FRG IN ITS FEDERAL LAW REGARDING THE TREATY ON BASIS OF RELATIONS WITH GDR, WHICH WAS EXTENDED TO WSB BY BK/L(73)2L; AND THAT USED FOR A BK/L ON AIRCRAFT NOISE CONTROL IN WHICH THE ALLIES DESIGNATED THEMSELVES AS THE INITIATOR OF TAKING OVER PROCESS. BERMAN WONDERED IF EITHER OF THE ABOVE WOULD MEET MINIMUM CONFIDENTIAL

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FRG NEEDS BUT EMPHASIZED THAT THEY ARE POSSIBILITIES FOR WHICH PRECEDENT IS ESTABLISHED. ALLIED REPS THEN AGREED TO CONSIDER FURTHER BEST POSSIBLE COURSE OF ACTION PREPARATORY TO BONN GROUP MEETING SET FOR MORNING OF MARCH 20.

5. COMMENT: WITH INCREASING FIRE BEING DIRECTED AT GAUS/NIER AGREEMENT BY OPPOSITION -- MAINLY BECAUSE OF DISPLEASURE THAT GDR PERM REP HEAD WILL BE ACCREDITED TO FEDERAL PRESIDENT -- FEDERAL GOVERNMENT IS INDEED IN A TIGHT SPOT. FRG MAIN CONCERN NOW IS THAT ALLIED

DIFFICULTIES WITH SITUATION ON ORDINANCES WILL
BECOME PUBLIC, THUS GIVING FOES OF AGREEMENT ANOTHER
PRETEXT FOR ATTACKING IT. WE THINK THAT UK REPS ARE
OVERLY CONCERNED ABOUT POSSIBLE USSR REACTION TO TAKING
OVER OF ORDINANCES IN WSB. WE HOPE TO OBTAIN AGREEMENT
IN PRINCIPLE IN BONN GROUP TOMORROW THAT THE ORDINANCES
MAY BE TAKEN OVER, WITH APPROPRIATE ALLIED RESERVATIONS.
IT SEEMS TO US THAT EITHER OF UK LEGAL REP'S SUGGESTIONS
COULD CONSTITUTE SUFFICIENT BASIS FOR SUCH TAKE OVER.
RE EXTENSION GAUS/NIER AGREEMENT, WE BASICALLY AGREE
WITH BERLIN LOGIC (PARA 3 REFTTEL B) BUT CONSIDER
THAT EXTENSION IS NO LONGER A REAL POSSIBILITY.
HILLENBRAND

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TREATY SIGNATURE, DIPLOMATIC PRIVILEGES, LAW, BERLIN QUADRIpartite MATTERS, MEETINGS, CENTRAL LEGISLATURE
Control Number: n/a
Copy: SINGLE
Draft Date: 19 MAR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974BONN04336
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: n/a
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740333/aaaabezg.tel
Line Count: 182
Locator: TEXT ON-LINE
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: (A) STATE 54120; (B) BERLIN 492; (C)
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 29 MAR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <29 MAR 2002 by collinp0>; APPROVED <04 JUN 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: RESPONSE TO SOVIET PROTEST ABOUT FRG LAW ON PRIVILIGES AND IMMUNITIES.
TAGS: PGOV, WB, GC, GE, US, FR, UK, UR
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005